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VIA CM/ECF

June 21, 2018

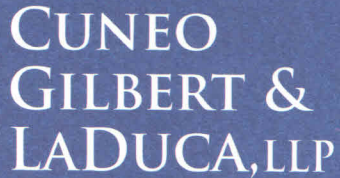
Honorable Vince Chhabria  
United States District Court for the Northern District of California  
San Francisco Courthouse, Courtroom 4 - 17th Floor  
450 Golden Gate Avenue, San Francisco, CA 94102

**Re: *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*  
MDL No. 2843**

Dear Judge Chhabria:

Pursuant to Pretrial Order No. 1, please accept this letter, along with the accompanying resume and list of supporting counsel, as my application for appointment to the leadership structure in this matter, be that as lead counsel or as part of a plaintiffs' steering committee, should the Court choose to create one. As discussed in more detail below, I believe my extensive record of successfully resolving complex class actions makes me well qualified to serve in a leadership position in this litigation. Significantly, I am currently serving as Interim Co-Lead Class Counsel (along with my co-counsel here, Helen Zeldes of Coast Law Group, LLP) in an action in the Central District of California (*In re Toll Roads Litigation*, 8:16-cv-00262 AG (JCGx)) that involves multiple issues relating to privacy protections for millions of consumers' sensitive personal data, and the failure of corporate defendants to protect that data.

I and my co-counsel have extensive familiarity with the claims before the Court. With Ms. Zeldes and Timothy Blood of Blood Hurst and O'Reardon, LLP, I filed an action in the Central District of California on April 4, 2018: *Jordan O'Hara, et al. v. Facebook, Inc., et al.*, 8:18-cv-00571-AG-JDE. In the course of investigating and litigating that case, we have amassed an exceptionally qualified team, retaining numerous leading experts on, among other key topics: psychographic modeling; data breach and cyber security; software engineering focused on corrective measures available to Facebook to protect users PII; and data and computer forensics. In the context of considering a preliminary injunction motion, we worked with these experts to delve deeply into the work done by Cambridge Analytica, and to carefully analyze Facebook's complicity in the misappropriation of user data. Further, we have

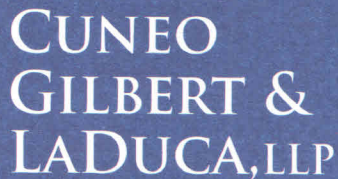


established relationships with experienced counsel in the United Kingdom who has been prosecuting claims against Cambridge Analytica for more than a year now and has formally sought preservation and disclosure of our clients' data from the insolvency administrators in the United Kingdom. Our matter is one of the few listed as a creditor on Cambridge Analytica's U.S. bankruptcy filings. Counsel from one of our firms attended the bankruptcy proceedings involving Cambridge Analytica in New York City today. In addition, all six of our clients reside in California and at least two have been notified by Facebook that their PII was obtained by Cambridge Analytica through the breach that is at the heart of this case. Finally, we also have one of the nation's leading constitutional scholars on our team. Erwin Chemerinsky is of counsel at Schonbrun Seplow Harris & Hoffman, LLP (one of the co-counsel on this matter) and he is (and has been) available to our team to consult on the claims at issue here.

Over the course of my career, I have focused my practice on representing small investors injured by securities fraud, small businesses and individuals hurt by antitrust price fixing, consumers hurt by fraudulent business practices, and victims of race, sex and other civil rights discrimination. Examples of cases demonstrating my professional experience with complex class actions and MDLs include the following:

- I worked on one of the largest antitrust class actions ever brought, serving as part of the team that prosecuted the *In re NASDAQ Market-Makers Antitrust Litigation*, MDL No. 1023 (S.D.N.Y.). Investors alleged that the NASDAQ market-makers set and maintained wide spreads pursuant to an industry-wide conspiracy in one of the largest and most important antitrust cases in recent memory. After over three years of intense litigation, the case was settled for a total of \$1.027 billion, at the time the largest antitrust settlement ever.
- I represented hundreds of college coaches who were wrongfully denied fair pay by their schools as part of a misguided NCAA effort to cut costs. Serving as lead counsel trial coordinator in the Restricted Earnings Coach Antitrust Litigation, I helped numerous witnesses present their testimony during several weeks of trial before a Kansas federal court. After several weeks of trial and the testimony of college coaches representing virtually every major sport, a federal court jury in Kansas City, Kansas awarded the coaches nearly \$70 million. The case was later settled on appeal to the 10th Circuit for \$54 million, which was distributed to coaches across the country.
- I represented hundreds of thousands of consumers, across the nation, who had purchased a computer with a Microsoft operating system. These consumers charged that they had paid more for the computers than was fair due to Microsoft's anticompetitive conduct. Serving as part of the lead counsel team in both state and federal cases against Microsoft, I worked to coordinate and manage dozens of cases, resulting in settlements worth hundreds of millions of dollars to consumers across the nation.
- I served as co-lead counsel on behalf of classes of Hispanic and female employees of the Regents of the University of California working at Los Alamos National Laboratory in Los Alamos, New Mexico (*Longmire v. Regents of the University of California d/b/a Los Alamos*





*National Laboratory*, No. 03-CV-1404 (District of New Mexico)). Plaintiffs alleged that LANL discriminated against female and Hispanic employees in terms of pay, promotion, educational opportunities and other terms and conditions of employment. The case resulted in a \$12 million cash settlement for the affected female and Hispanic employees.

This litigation experience demonstrates my present and future ability to commit to time-consuming litigation, my ability to work cooperatively with others, my readiness and ability to commit the resources necessary to lead the prosecution of this litigation in a timely manner, as well as my ability to maintain reasonable fees and expenses.

Cuneo Gilbert & LaDuca, LLP (CGL) is acutely aware that those appointed to leadership positions need to be vigilant about the effective and efficient conduct of the litigation, avoiding unnecessary fees and costs to the maximum extent possible. As evidenced by the resume attached hereto as Exhibit 1, we have an abundance of experience litigating cases through years of motion practice, discovery, and trial, and will dedicate whatever time and resources are necessary to successfully resolve this case. CGL has worked effectively with most of the firms in this MDL including those listed in Exhibit 2, who support my appointment herein. CGL believes that an inclusive management style is most effective and will seek input and participation from our colleague firms, while always being careful not to duplicate efforts in this large, complex, multi-party case.

CGL's experience has taught us that it is necessary to commit substantial resources, both financial and otherwise, to successfully prosecute complex MDLs such as this. We stand ready to do so in this case. I am willing to serve as either lead counsel or a member of a steering committee and apply herein for both positions.

Thank you for your consideration of my application.

Respectfully,

Michael J. Flannery  
Cuneo Gilbert & LaDuca, LLP  
CA Bar #196266

*Attorneys For Plaintiffs Jordan O'Hara,  
Brent Collins, Olivia Johnston, Anthony  
Bell, Juliana Watson and Ann Kowaleski*

# **EXHIBIT 1**

**MICHAEL J. FLANNERY**

**CUNEO GILBERT & LADUCA LLP**

**MICHAEL J. FLANNERY** has over twenty years of experience successfully representing plaintiffs in complex antitrust, consumer fraud, securities and civil rights class actions before state and federal courts across the country. Mr. Flannery concentrates his practice on complex class action litigation on behalf of consumers hurt by fraudulent business practices, small businesses and individuals hurt by antitrust price fixing, defrauded investors and victims of race, sex and other civil rights discrimination.

Mr. Flannery has served and continues to serve a leadership role in numerous complex class action matters, including the following examples:

- Mr. Flannery is currently serving as Interim Co-Lead Class Counsel in *In re Toll Roads Litigation*, Case No. 8:16-cv-00262 AG (JCGx) (Central District of California) in a case that involves multiple issues relating to privacy protections for millions of California consumers' sensitive personal data, and the failure of corporate defendants to protect that data. Plaintiffs allege that, among other claims, the defendants, operators of several toll roads in southern California, violated Plaintiffs' privacy rights by improperly and unlawfully providing their PII ("Personally Identifiable Information") to numerous third parties. The case is currently proceeding toward trial before Judge Andrew Guilford.
- Mr. Flannery served as co-lead counsel in *In re JP Morgan Chase Mortgage Modification Litigation*, MDL No. 2290 (District of Massachusetts) in a case involving allegations that Chase engaged in unfair and deceptive conduct toward class members who were attempting to modify their home mortgages. The case was litigated extensively before Judge Richard Stearns, eventually reaching a class-wide settlement in 2014.
- Mr. Flannery served as co-lead counsel on behalf of classes of Hispanic and female employees of the Regents of the University of California working at Los Alamos National Laboratory in Los Alamos, New Mexico (*Longmire v. Regents of the University of California d/b/a Los Alamos National Laboratory*, No. 03-CV-1404 (District of New Mexico)). Plaintiffs alleged that LANL discriminated against female and Hispanic employees in terms of pay, promotion, educational opportunities and other terms and conditions of employment. The case resulted in a \$12 million dollar cash settlement for the affected employees.
- Mr. Flannery served as a member of the lead counsel team that prosecuted the securities fraud action against Hollywood Video (*Murphy v. Hollywood Entertainment Corp., et al.*, No. 95-CV-1926 (District of Oregon)) alleging securities fraud against the company, its executives and the company's auditor. The case resulted in a settlement of \$15 million dollars.



- Mr. Flannery served as a member of the lead counsel and trial teams that prosecuted the Restricted Earnings Coach Antitrust litigation on behalf of one of the three classes of college coaches alleging price fixing against the National Collegiate Athletic Association (*Hall v. NCAA*, No. 94-CV-2392 (District of Kansas)). On May 4, 1998, a federal court jury in Kansas City, Kansas returned verdicts in favor of the three classes for more than \$70 million dollars. The case was later settled on appeal to the 10<sup>th</sup> Circuit for \$54 million dollars.
- Mr. Flannery served as co-lead counsel in both state and federal antitrust litigation against Microsoft, including his work as one of the five federal co-leads in *In re Microsoft Antitrust Litigation*, MDL No. 1350 (District of Maryland). As one of the federal co-leads, Mr. Flannery coordinated and managed dozens of separate antitrust suits brought against Microsoft alleging illegal antitrust conduct with respect to Microsoft's computer operating system. The federal and state litigation resulted in settlements worth hundreds of millions of dollars to consumers across the nation.
- Mr. Flannery served as a member of the lead counsel team that prosecuted *In re NASDAQ Market-Makers Antitrust Litigation*, MDL No. 1023 (S.D.N.Y.), where a class of investors alleged that the NASDAQ market-makers set and maintained wide spreads pursuant to an industry-wide conspiracy in one of the largest and most important antitrust cases in recent memory. After over three years of intense litigation, the case was settled for a total of \$1.027 billion dollars, at the time the largest antitrust settlement ever.

**CUNEO GILBERT & LADUCA LLP** has successfully lead numerous large, multidistrict litigations and has a demonstrated ability to organize and manage complex litigation, working cooperatively with counsel for all of the involved parties. Other federal courts have recognized as much by appointing CG&L attorneys to leadership positions in numerous MDL matters and other class action cases. The firm has achieved success for a range of clients by: helping to recover billions of dollars in shareholder litigation, obtaining compensation for Holocaust survivors, working to recover hundreds of millions of dollars for homeowners with defective construction materials, and, in several jurisdictions, ending the practice of jails subjecting minor law violators to unnecessary strip searches. The firm has years of experience litigating and prosecuting complex class actions such as this case, including such cases as the *Enron Securities Litigation*, where more than \$7 billion was recovered for defrauded investors and CertainTeed's defective organic shingles litigation, where the firm served as Co-lead Counsel in an MDL that secured a settlement valued at more than \$700 million.

# **EXHIBIT 2**

**COUNSEL SUPPORTING APPOINTMENT  
OF MICHAEL J. FLANNERY AND CUNEO GILBERT & LADUCA, LLP  
TO LEADERSHIP POSITION IN MDL NO. 2843  
IN RE: FACEBOOK, INC., CONSUMER PRIVACY USER PROFILE LITIGATION**

1. Michael W. Sobol  
Lieff Cabraser Heimann & Bernstein, LLP  
San Francisco, CA
2. Christopher A. Seeger  
Seeger Weiss LLP  
New York, NY
3. James E. Cecchi  
Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.  
Roseland, NJ
4. Daniel C. Hedlund  
Gustafson Gluek PLLC  
Minneapolis, MN
5. Timothy G. Blood  
Blood Hurst & O'Reardon, LLP  
San Diego, CA
6. Helen I. Zeldes  
Coast Law Group, LLP  
San Diego, CA
7. Paul L. Hoffman  
Schonbrun Seplow Harris & Hoffman, LLP  
Los Angeles, CA
8. Derek W. Loeser  
Keller Rohrback LLP  
Seattle, WA
9. Gary F. Lynch  
Carlson Lynch  
Pittsburgh, PA



10. Arthur M. Murray  
Murray Law Firm  
New Orleans, LA
11. Karen Hanson Riebel  
Lockridge Grindal Nauen, PLLP  
Minneapolis, MN
12. Nicholas A. Carlin  
Phillips, Erlewine, Given & Carlin LLP  
San Francisco, CA